

JSN/baw

Randall Sousa
Pro Se Appellant
700 East Main Street, # 970
Richmond, VA 23218
Tel: (804) 372-7092
Email: randallsousa@gmail.com

UNITED STATES COURT OF APPEALS
FOURTH JUDICIAL CIRCUIT

RANDALL SOUSA,

Plaintiff-Appellant,

v.

THE CIRCUIT COURT OF FAIRFAX
COUNTY; THE HONORABLE DAVID
BERNHARD; THE HONORABLE CHARLES
S. SHARP; and WILLBERG TEDDY
CHAPILLQUEN

Defendant-Appellees.

Case No.: 23-1020

**APPELLANT'S MOTION FOR
EXTENSION OF TIME TO FILE
OPENING BRIEF**

Appellant Randall Sousa ("Appellant") hereby moves this Court for a 15-day extension of time in which to file his opening brief from February 2, 2023, to February 17, 2023. Although motions for extension of time are disfavored by the local rules of this Court [See, L.R. 31(c)], this Court is authorized to grant an extension when good cause is shown. [Fed. R. App. P. 31(a)(1)]. The attached Declaration of Randall Sousa establishes good cause for the requested extension in that it demonstrates as follows:

- 1) The opening "informal" brief has been scheduled to be filed with this Court by February 2, 2023.
- 2) As a result of circumstances beyond Appellant's control, it has become impossible to file the brief in a timely manner due to Appellant's emergency need to travel to Miami to care for his ailing father during his final dose of chemotherapy for treatment of non-

Hodgkin's lymphoma. Appellant's father's treating specialist is Dr. Izidore S. Lossos of the University of Miami Sylvester Cancer Center. [Declaration of Randall Sousa ("Sousa Decl."), ¶ 2].

3) Up until Christmas time, Appellant's father had been handling his chemotherapy treatments relatively well, however, shortly before New Year's, Appellant's father began to completely stop eating and was exhibiting signs of wasting. Appellant immediately flew down to Miami to help see his father through his final treatment of chemotherapy, and to ensure that his father was walking, staying alert, and eating—even if it meant blending up food into a "smoothie" and having him drink it. [*Id.*, ¶¶ 3-5].

4) As a result of his father's illness, Appellant was away from his home; solely focused on caring for his cancer-stricken father; and was unable to conduct legal research or begin drafting the brief. [*Id.*, ¶ 5].

5) Having returned to Virginia on January 27, 2023, Appellant is now able to focus on drafting the brief, but without a short extension, Appellant will be deprived of any real opportunity to file an adequate brief in this matter. [*Id.*, ¶ 6].

6) The requested extension of 15 days will not cause any other party to suffer hardship or be unduly inconvenienced. No prior extension has been requested, and ***no further extensions will be requested*** by Appellant in this matter. [*Id.*, ¶ 7].

7) Finally, while an argument can be made that Appellant should have filed this request sooner, it was not until last evening, January 31, 2023, that the undersigned realized that filing a complete brief by February 2, 2023, would not be possible. [*Id.*, ¶ 6].

For the foregoing reasons, Appellant asks that this Court grant him an extension of 15 days to file his opening brief so that the due date of the brief will now be February 17, 2023.

Date: 2/1, 2023

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DECLARATION OF REANDALL SOUSA IN SUPPORT OF APPELLANT'S MOTION FOR EXTENSION OF TIME TO FILE OPENING BRIEF

I, Randall Sousa, declare as follows:

- 1) I am a resident of Richmond, VA at all times relevant. I am the pro se plaintiff in the above-captioned matter. If called as a witness, I could and would testify competently to the following facts, all of which are within my own personal knowledge.
- 2) In early-September of 2022, my father, Rinel Sousa, noticed a large lump on his neck. After going to his primary care physician and having bloodwork performed, my father was diagnosed with non-Hodgkin's lymphoma, and he was referred to a hematological malignancy specialist by the name of Dr. Izidore Lossos.
- 3) For the next two months, my father experienced the normal symptoms of chemotherapy – hair loss, occasional nausea, peeling skin, and blurred vision when reading. Notwithstanding, he was progressing well until late-December when my mother informed me that my father was

refusing to eat and losing weight at a rapid pace.

4) I immediately flew down to Miami where my father lives to help see him through the final and most brutal stages of his chemotherapy. There is an internal family dynamic where, although my father might be keen on acting stubbornly with my mother, he is not as keen on acting stubbornly with me. I was thus essentially summoned by my mother to help care for my father during his final stages of chemo.

5) During the time I was caring for him, I literally blending up food with tomato sauce and had him drink it; took him to his appointments; took multiple walks with him each day; kept him company; and did the chores he otherwise would be doing since, as a result of his compromised immune system, Dr. Lossos advised to keep my father away from places where there would be a large gathering of unmasked people. Given the nature of the situation, I was not able to conduct any legal research, draft the brief, or focus on anything other than seeing my father through his chemotherapy treatments which, as of today's date, thankfully appear to have been successful.

6) I returned to Virginia on January 27, 2023, and have been focused on drafting the brief since that time, and while it has been my intention to file a timely brief, I simply was unable to finish the brief in 5 days despite my best intentions.

7) I will not be requesting any further extensions of time in this matter.

I declare under penalty of perjury under the laws of the United States and the Commonwealth of Virginia, that the foregoing is true and correct and that this Declaration was executed on this 1st day of February 2023, at Richmond, VA.



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CERTIFICATE OF SERVICE

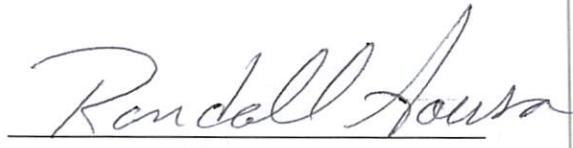
I certify that on February 1, 2023, I served on all parties or their counsel of record the following documents via electronic and United States Mail:

Documents Served:

- 1) Motion for Extension of Time to Filing Opening Brief
- 2) Declaration of Randall Sousa

<i>PARTIES SERVED</i>	<i>ATTORNEY(S) FOR</i>
Sheri H. Kelly skelly@oag.state.va.us 204 Abingdon Place Abingdon, Virginia 24211	Defendants Circuit Court of Fairfax County, the Honorable David Bernhard, and the Honorable Charles S. Sharp
Bret Lee bret@bretlee.com 10521 Judicial Drive, Suite 100 Fairfax, Virginia 22030	Defendant Willberg Teddy Chapilliqueen

Date: 2/1, 2023



RANDALL SOUSA

